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9 Attorneys for Defendants

10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 KEVIN FERGUSON, on behalf of himself  
 13 and all others similarly situated,

14 Plaintiff,

15 vs.

16 CORINTHIAN COLLEGES, INC.,  
 CORINTHIAN COLLEGES, INC., d/b/a  
 17 EVEREST COLLEGE, CORINTHIAN  
 COLLEGES, INC., d/b/a EVEREST  
 UNIVERSITY, CORINTHIAN  
 18 COLLEGES, INC., d/b/a EVEREST  
 INSTITUTE, CORINTHIAN COLLEGES,  
 19 INC., d/b/a EVEREST COLLEGE OF  
 BUSINESS, TECHNOLOGY AND  
 20 HEALTH CARE, HEALD COLLEGE,  
 LLC, and HEALD CAPITAL, LLC,

21 Defendants.

22 SANDRA L. MUÑIZ, on behalf of herself  
 23 and all others similarly situated,

24 Plaintiff,

25 vs.

26 CORINTHIAN COLLEGES, INC.,  
 CORINTHIAN COLLEGES, INC., d/b/a  
 27 EVEREST COLLEGE, CORINTHIAN  
 COLLEGES, INC., d/b/a EVEREST  
 28 UNIVERSITY, CORINTHIAN

Case No. SACV 11-00127 DOC (AJWx)

**DEFENDANTS' ANSWER AND  
 AFFIRMATIVE DEFENSES TO  
 PLAINTIFF MUNIZ'S COMPLAINT**

**The Honorable David O. Carter**

Case No. SACV 11-00259 DOC (AJWx)

COLLEGES, INC., d/b/a EVEREST  
INSTITUTE, CORINTHIAN COLLEGES,  
INC., d/b/a EVEREST COLLEGE OF  
BUSINESS, TECHNOLOGY AND  
HEALTH CARE, HEALD COLLEGE,  
LLC, and HEALD CAPITAL, LLC,

Defendants.

Defendants Corinthian Colleges, Inc.; Corinthian Colleges, Inc., d/b/a Everest College; Corinthian Colleges, Inc., d/b/a Everest University; Corinthian Colleges, Inc., d/b/a Everest Institute; Corinthian Colleges, Inc., d/b/a Everest College of Business, Technology and Health Care; Heald College, LLC; and Heald Capital, LLC (collectively, “the School”), in compliance with the district court’s January 5, 2012 Order (Dkt. 65), submit this Answer and Affirmative Defenses to the Complaint as it relates to public injunction allegations, filed by Plaintiff Sandra L Muniz (“Plaintiff”).<sup>1</sup> Any allegations set forth in Plaintiff’s Complaint not specifically admitted herein in hereby denied.

### **ANSWER**

1. Denied.

2. The School admits Corinthian Colleges, Inc. is a for-profit higher education company founded in 1995 with its headquarters in Santa Ana, California; that Corinthian owns Everest entities and Heald Capital, LLC; that Corinthian Colleges, Inc. had its initial public offering on February 5, 1999; that the School had more than 113,800 students enrolled as of September 30, 2010; the School denies the remainder of the allegations of this paragraph.

3. Denied.

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<sup>1</sup> The School files this pleading solely to comply with the Court’s January 5, 2012 Order, and specifically without waiver of its current appeal of the Court’s Order denying the School’s motion to compel arbitration of the public injunction claims, *Corinthian Colleges, Inc., et al. v. Ferguson, et al.*, Case No. 11-56965 (9th Cir.), or the School’s Ninth Circuit motion to stay this action pending appeal.

1           4.     Denied.

2           5.     The School admits that Title IV federal financial aid accounted for a  
3 portion of its revenue in 2009; the School denies the remainder of the allegations of  
4 this paragraph.

5           6.     The requirements of Title IV speak for themselves and are issues of law;  
6 the School denies the remainder of the allegations of this paragraph.

7           7.     The School is without knowledge sufficient to form a belief as to the  
8 estimates of an unidentified “independent analysis;” the School denies the remainder  
9 of the allegations of this paragraph.

10          8.     The School admits Senator Richard Durbin of Illinois gave a speech  
11 before the U.S. Senate on September 28, 2010, and that the text of that speech as  
12 excerpted in the paragraph speaks for itself; the School denies the remainder of the  
13 allegations of this paragraph, including, but not limited to, the allegations contained in  
14 the excerpt.

15          9.     Denied.

16          10.    Denied.

17          11.    The School admits that Corinthian Colleges, Inc. is headquartered in  
18 Santa Ana, California; the School denies the remainder of the allegations of this  
19 paragraph.

20          12.    The School admits Plaintiff enrolled in Heald College’s Rancho Cordova  
21 campus in 2007; received an office skills certificate; enrolled in paralegal programs;  
22 and transferred from the paralegal program to the criminal justice program at Heald’s  
23 Roseville campus. The School denies the remainder of the allegations of this  
24 paragraph.

25          13.    The School admits Corinthian Colleges, Inc. is a for-profit higher  
26 education company founded in 1995 with its headquarters in Santa Ana, California;  
27 that Corinthian owns Everest entities and Heald Capital, LLC; that Corinthian  
28 Colleges, Inc. had its initial public offering on February 5, 1999; that the School had

1 more than 113,800 students enrolled as of September 30, 2010; the School denies the  
 2 remainder of the allegations of this paragraph.

3 14. Admitted.

4 15. Admitted.

5 16. Admitted.

6 17. Admitted.

7 18. The School admits that Heald College, LLC was founded in San  
 8 Francisco, California in 1863; that Heald College, LLC operates campuses in  
 9 California, Oregon, and Hawaii; and that Heald College, LLC offers associate's  
 10 degrees and certifications; the School denies the remainder of the allegations of this  
 11 paragraph.

12 19. Admitted.

13 20. Denied.

14 21. The School admits 113,818 students were enrolled as of September 30,  
 15 2010 and denies the remainder of the allegations of this paragraph.

16 22. Denied as to this paragraph and all subparts therein.

17 23. Denied as to this paragraph and all subparts therein.

18 24. Denied.

19 25. Denied.

20 26. The School is without knowledge sufficient to form a belief as to the  
 21 allegations of this paragraph.

22 27. Denied.

23 28. Denied.

24 29. Denied.

25 30. Denied.

26 31. Denied.

27 32. Denied.

28 33. Denied.

1       34. Denied.

2       35. Denied as to this paragraph and all subparts therein.

3       36. Denied.

4       37. Denied.

5       38. The statements of the U.S. Department of Education in April 2010 speak  
6 for themselves; the School denies the remainder of the allegations of this paragraph,  
7 including, but not limited to, the allegations in the quoted excerpt.

8       39. The statements of the U.S. Department of Education in April 2010 speak  
9 for themselves; the School denies the remainder of the allegations of this paragraph,  
10 including, but not limited to, the allegations in the quoted excerpt.

11       40. The requirements of Title IV speak for themselves and are issues of law;  
12 the School's third quarter Form 10-Q report from 2010 speaks for itself; the School  
13 denies the remainder of the allegations of this paragraph.

14       41. The School's third quarter Form 10-Q report from 2010 speaks for itself;  
15 the School denies the remainder of the allegations of this paragraph.

16       42. Denied.

17       43. Denied.

18       44. Denied.

19       45. The School's third quarter Form 10-Q from 2010 speaks for itself; the  
20 School denies the remainder of the allegations of this paragraph.

21       46. The School is without knowledge sufficient to form a belief as to the  
22 estimates of an unidentified "independent analysis;" the School denies the remainder  
23 of the allegations of this paragraph.

24       47. Denied.

25       48. The requirements of Title IV speak for themselves and are issues of law;  
26 the School denies the remainder of the allegations of this paragraph.

27       49. The excerpted part of the September 28, 2010 speech of Senator Durbin  
28 stated in this paragraph speaks for itself; the School denies the remainder of the

1 allegations of this paragraph, including, but not limited to, the allegations in the  
2 excerpted quote.

3 50. Denied.

4 51. The School admits that the Department of Education issued a program  
5 review report in April 2010 concerning Corinthian; the School denies the remainder of  
6 the allegations of this paragraph, including, but not limited to, the allegations of this  
7 report.

8 52. The excerpted part of the September 28, 2010 speech of Senator Durbin  
9 stated in this paragraph speaks for itself; the School denies the remainder of the  
10 allegations of this paragraph, including, but not limited to, the allegations in the  
11 speech.

12 53. Denied.

13 54. The School's 2010 Annual Report speaks for itself; the School denies the  
14 remainder of the allegations of this paragraph.

15 55. The School admits that the United States Department of Veterans Affairs  
16 (the "VA") is subject to the requirements of 38 U.S.C. § 3313(c)(1)(A) and that the  
17 VA publishes a rate table; the School denies the remainder of the allegations of this  
18 paragraph.

19 56. 34 C.F.R. § 668.43 speaks for itself; the School denies the remainder of  
20 the allegations of this paragraph.

21 57. Denied.

22 58. Denied.

23 59. The website and webpages discussed speak for themselves; the School  
24 denies the remainder of the allegations of this paragraph.

25 60. The website and webpages discussed speak for themselves; the School  
26 denies the remainder of the allegations of this paragraph.

27 61. Denied.

28 62. Denied.

1           63.    Denied.

2           64.    The School admits that the Higher Learning Commission is the  
3    accrediting agency for Everest College Phoenix; the School denies the remainder of  
4    the allegations of this paragraph.

5           65.    The School's Form 10-Q speaks for itself; the School denies the  
6    remainder of the allegations of this paragraph.

7           66.    Denied.

8           67.    The November 4, 2010 HLC order to show cause speaks for itself; the  
9    School denies the remainder of the allegations of this paragraph, including, but not  
10   limited to, the excerpted allegations of the order and all subparts of this paragraph.

11          68.    Denied.

12          69.    Denied.

13          70.    Denied.

14          71.    The website and webpages discussed speak for themselves; the School  
15   denies the remainder of the allegations of this paragraph.

16          72.    Denied.

17          73.    Denied.

18          74.    Denied.

19          75.    The website and webpages discussed speak for themselves; the School  
20   denies the remainder of the allegations of this paragraph.

21          76.    Denied.

22          77.    Denied.

23          78.    Denied.

24          79.    Denied.

25          80.    Denied.

26          81.    Denied.

27          82.    The website and webpages discussed speak for themselves; the School  
28   denies the remainder of the allegations of this paragraph.

1           83.    Denied.

2           84.    The website and webpages discussed speak for themselves; the School  
3 denies the remainder of the allegations of this paragraph.

4           85.    Denied.

5           86.    The School admits Everest's campuses have national accreditation; the  
6 School denies the remainder of the allegations of this paragraph.

7           87.    Denied.

8           88.    The School's third quarter Form 10-Q report for 2010 speaks for itself;  
9 the School denies the remainder of the allegations of this paragraph.

10          89.    Denied.

11          90.    The School's third quarter Form 10-Q report for 2010 speaks for itself;  
12 the School denies the remainder of the allegations.

13          91.    The excerpted part of the September 28, 2010 speech of Senator Durbin  
14 stated in this paragraph speaks for itself; the School denies the remainder of the  
15 allegations of this paragraph, including, but not limited to, the allegations in the  
16 excerpted quote.

17          92.    Denied.

18          93.    Denied.

19          94.    The School admits that Plaintiff enrolled in and completed the business  
20 skills program at Heald College and admits that Plaintiff also enrolled in the paralegal  
21 and criminal justice programs at Heald College; the School denies the remainder of  
22 the allegations of this paragraph.

23          95.    Denied.

24          96.    Denied.

25          97.    Denied.

26          98.    Denied.

27          99.    The requirements of Title IV speak for themselves and are issues of law;  
28 the School denies the remainder of the allegations of this paragraph.



1           100. The School admits Bloomberg News published an article on December 9,  
2 2010; the excerpted passage and the requirements of the 2008 GI Bill speak for  
3 themselves; the School denies the remainder of the allegations of this paragraph,  
4 including, but not limited to, the allegations of the excerpted article.

5           101. Denied.

6           102. Denied.

7           103. The enrollment website speaks for itself; the School denies the remainder  
8 of the allegations in this paragraph.

9           104. The School admits that the United States Department of Veterans Affairs  
10 (the “VA”) is subject to 38 U.S.C. § 3313(c)(1)(A) and that the VA publishes these  
11 amounts in a rate table; the School denies the remainder of the allegations of this  
12 paragraph.

13           105. Denied.

14           106. Denied.

15           107. The quoted excerpt speaks for itself; the School is without sufficient  
16 knowledge to form a belief as the allegations of the quoted excerpt; the School denies  
17 the remainder of the allegations of this paragraph, including, but not limited to, the  
18 allegations in the quoted excerpt.

19           108. The School admits the GAO conducted an investigation in 2009 with  
20 respect to career education schools and denies the remainder of the allegation of this  
21 paragraph and all subparts therein.

22           109. The contents of the GAO report speak for themselves; the School is  
23 without knowledge sufficient to form a belief as to the practices of other educational  
24 institutions; the School denies the remainder of the allegations of the paragraph.

25           110. The contents of the GAO report speak for themselves; the School is  
26 without knowledge sufficient to form a belief as to the practices of other educational  
27 institutions; the School denies the remainder of the allegations of the paragraph.

28           111. The contents of the GAO report speak for themselves; the School is

1 without knowledge sufficient to form a belief as to the practices of other educational  
2 institutions; the School denies the remainder of the allegations of the paragraph.

3 112. The School's third quarter Form 10-Q report from 2010 speaks for itself;  
4 the School denies the remainder of the allegations of the paragraph.

5 113. Denied.

6 114. Denied.

7 115. Denied.

### 8 **Alleged Fraud**

#### 9 **(First Claim)**

10 In this case, the School is not required to respond, and it would be improper to  
11 respond, to Paragraphs 116 through 129 of the Complaint pertaining to Plaintiff's  
12 putative claim for alleged fraud, as this claim has been compelled to individual  
13 arbitration.

### 14 **Alleged Negligent Misrepresentation**

#### 15 **(Second Claim)**

16 In this case, the School is not required to respond, and it would be improper to  
17 respond, to Paragraphs 130 through 134 of the Complaint pertaining to Plaintiff's  
18 putative claim for alleged negligent misrepresentation, as this claim has been  
19 compelled to individual arbitration.

### 20 **Alleged Violation of California Business & Professions Code § 17200, et seq.**

#### 21 **(Third Alleged Claim)**

22 135. The School incorporates its responses in paragraphs 1 through 115 of the  
23 Complaint as if fully set forth herein, as well as the unnumbered response to  
24 paragraphs 116 through 134 of the Complaint and the unnumbered response to  
25 paragraphs 156 through 166 of the Complaint. Plaintiff has incorporated every  
26 supposed preceding count into this alleged paragraph and count, including counts  
27 compelled to individual arbitration, thus making this an improper "shotgun" pleading  
28 subject to striking and/or dismissal. *See, e.g., Destfino v. Kennedy*, No. CV-F-08-

1 1269 LJO DLB, 2009 WL 63566 \*5-8 (E.D. Cal. Jan. 8, 2009).

2 136. California's Unfair Trade Practices Act, California Business &  
 3 Professions Code § 17200, *et seq.*, speaks for itself and its definitions are an issue of  
 4 law; the School denies the remainder of the allegations of this paragraph.

5 137. California's Unfair Trade Practices Act, California Business &  
 6 Professions Code § 17200, *et seq.*, speaks for itself and its interpretation is an issue of  
 7 law; the School denies the remainder of the allegations of this paragraph.

8 138. Denied.

9 139. The Private Postsecondary Education Act of 2009, California Education  
 10 Code § 94800, *et seq.*, speaks for itself and its requirements are an issue of law; the  
 11 School denies the remainder of the allegations of this paragraph including all subparts  
 12 herein.

13 140. Denied.

14 141. Denied.

15 **Alleged Violation of California Business & Professions Code § 17200, *et seq.***  
 16 **(Fourth Alleged Claim)**

17 142. The School incorporates its responses in paragraphs 1 through 115 of the  
 18 Complaint as if fully set forth herein, as well as the unnumbered response to  
 19 paragraphs 116 through 134 of the Complaint and the unnumbered response to  
 20 paragraphs 156 through 166 of the Complaint. Plaintiff has incorporated every  
 21 supposed preceding count into this alleged paragraph and count, including counts  
 22 compelled to individual arbitration, thus making this an improper "shotgun" pleading  
 23 subject to striking and/or dismissal. *See, e.g., Destfino v. Kennedy*, No. CV-F-08-  
 24 1269 LJO DLB, 2009 WL 63566 \*5-8 (E.D. Cal. Jan. 8, 2009).

25 143. The False Advertising Act, California & Professions Code § 17500, *et*  
 26 *seq.*, speaks for itself and its requirements are an issue of law; the School denies the  
 27 remainder of the allegations of this paragraph.

28 144. The False Advertising Act, California & Professions Code § 17500, *et*

1 *seq.*, speaks for itself and its requirements are an issue of law; the School denies the  
2 remainder of the allegations of this paragraph.

3 145. Denied.

4 146. Denied.

5 147. Denied.

6 148. Denied.

7 149. Denied.

8 **Alleged Violation of the Consumer Legal Remedies Act**  
9 **(Fifth Alleged Claim)**

10 150. The School incorporates its responses in paragraphs 1 through 115 of the  
11 Complaint as if fully set forth herein, as well as the unnumbered response to  
12 paragraphs 116 through 134 of the Complaint and the unnumbered response to  
13 paragraphs 156 through 166 of the Complaint. Plaintiff has incorporated every  
14 supposed preceding count into this alleged paragraph and count, including counts  
15 compelled to individual arbitration, thus making this an improper “shotgun” pleading  
16 subject to striking and/or dismissal. *See, e.g., Destfino v. Kennedy*, No. CV-F-08-  
17 1269 LJO DLB, 2009 WL 63566 \*5-8 (E.D. Cal. Jan. 8, 2009).

18 151. The Consumer Legal Remedies Act, California Civil Code § 1750, *et*  
19 *seq.*, speaks for itself and its requirements are an issue of law; the School denies the  
20 remainder of the allegations of this paragraph.

21 152. Denied.

22 153. Denied.

23 154. Denied.

24 155. Denied.

25 **Alleged Breach of Implied Contract**  
26 **(Sixth Claim)**

27 In this case, the School is not required to respond, and it would be improper to  
28 respond, to Paragraphs 156 through 162 of the Complaint pertaining to Plaintiff’s

1 putative claim for breach of implied contract, as this claim has been compelled to  
2 individual arbitration.

3 **Alleged Breach of the Implied Covenant of Good Faith and Fair Dealing**  
4 **(Seventh Claim)**

5 In this case, the School is not required to respond, and it would be improper to  
6 respond, to Paragraphs 163 through 166 of the Complaint pertaining to Plaintiff's  
7 putative claim for alleged breach of the implied covenant of good faith and fair  
8 dealing, as this claim has been compelled to individual arbitration.

9 167. Denied.

10 The School denies that Plaintiff is entitled to any of the damages or relief  
11 sought by the Complaint and/or requested in Plaintiff's "Prayer for Relief," including,  
12 but not limited to, Plaintiff's request for supposed preliminary and permanent  
13 injunctive relief (including any purported injunctive relief on behalf of the public),  
14 any purported declaratory relief, supposed restitution, alleged disgorgement, purported  
15 punitive damages, and the alleged costs of this action, including expert fees and  
16 attorney's fees.

17 **AFFIRMATIVE AND OTHER DEFENSES**

18 1. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
19 Plaintiff's alleged claims are subject to individual arbitration pursuant to Plaintiff's  
20 enrollment agreements with the School. *See* 9 U.S.C. § 1, *et seq.* The question of the  
21 enforceability of the arbitration agreements to purported claims for public injunctive  
22 relief is currently the subject of an appeal styled *Kevin Ferguson, et al. v. Corinthian*  
23 *Colleges, Inc., et al.*; Case No. 11-56965 (9th Cir.).

24 2. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
25 venue is improper in this Court as the parties have an enforceable arbitration  
26 agreement to arbitrate all disputes, including but not limited to the purported claims  
27 for public injunctive relief. The question of the enforceability of the arbitration  
28 agreement to such claims is currently the subject of an appeal styled *Kevin Ferguson,*

1 *et al. v. Corinthian Colleges, Inc., et al.*; Case No. 11-56965 (9th Cir.).

2 3. Plaintiff cannot state a supposed class action claim because Plaintiff  
3 entered into enforceable arbitration agreements that do not permit a class action, and  
4 all relevant claims are subject to individual arbitration. *See Stolt-Nielsen S.A. v.*  
5 *AnimalFeeds, Int’l Corp.*, 559 U.S. \_\_\_, 130 S. Ct. 1758 (2010).

6 4. The Complaint and all supposed claims for relief are improperly pled and  
7 should be stricken pursuant to Rule 8, Fed.R.Civ.P. *See, e.g., Destfino v. Kennedy*,  
8 No. CV-F-08-1269 LJO DLB, 2009 WL 63566 \*5-8 (E.D. Cal. Jan. 8, 2009).

9 5. Plaintiff’s alleged claims fail or are barred, in whole or in part, because  
10 Plaintiff has failed to state a valid claim for a purported public injunction upon which  
11 relief can be granted, and is not entitled to recover for any of the alleged damages,  
12 losses, or injury (if any) asserted.

13 6. Plaintiff’s alleged claims fail or are barred, in whole or in part, because  
14 venue is improper in this Court pursuant to 28 U.S.C. § 1404, as stated in the School’s  
15 previously filed motion to transfer venue and related filings, D.E. 13, 14, 15, and 16  
16 (*Muniz v. Corinthian Colleges, Inc., et al.*; Case No. 8:11-cv-00259-DOC-AJW); and  
17 D.E. 10, 11, 12, 13, 16, 29, 30, 31, and 32 (*Ferguson v. Corinthian Colleges, Inc., et*  
18 *al.*; Case No. 8:11-cv-00127-DOC-AJW).

19 7. Plaintiff’s alleged claims fail or are barred, in whole or in part, because  
20 her action was improperly consolidated with claims of another student of the School,  
21 in violation of Plaintiff’s enrollment agreements with the School.

22 8. Plaintiff’s alleged claims fail or are barred, in whole or in part, because  
23 this action was improperly consolidated with the case styled *Ferguson v. Corinthian*  
24 *Colleges, Inc., et al.*; Case No. 8:11-cv-00127-DOC-AJW, as stated in the School’s  
25 previously filed opposition to consolidation and related filings, D.E. 24, 25, 26, and 17  
26 (*Ferguson v. Corinthian Colleges, Inc., et al.*; Case No. 8:11-cv-00127-DOC-AJW).

27 9. Plaintiff’s alleged claims for “public injunctive relief” against the School  
28 fail or are barred, in whole or in part, because Plaintiff lacks standing to bring them.

1           10. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
2 Plaintiff's claims are moot.

3           11. Plaintiff's alleged statutory claims fail or are barred, in whole or in part,  
4 because Plaintiff has suffered no injury from the School's alleged violations and/or is  
5 not within the class of persons sought to be protected by the relevant statutes.

6           12. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
7 the School acted at all times in good faith and without the requisite culpability with  
8 respect to the alleged violations asserted in the Complaint.

9           13. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
10 the public interest weighs against the imposition of Plaintiff's request relief against the  
11 School.

12           14. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
13 neither Plaintiff nor any member of the general public reasonably and/or justifiably  
14 relied on the alleged acts or omissions set forth in the Complaint.

15           15. This Court lacks subject matter jurisdiction over the Complaint under 28  
16 U.S.C. § 1332.

17           16. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
18 Plaintiff did not suffer any injury or damages by reason of the alleged acts or  
19 omissions set forth in the Complaint

20           17. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
21 Plaintiff did not exercise due care and failed to act reasonably to protect herself from,  
22 or to mitigate, any damages she allegedly may have sustained by reason of the alleged  
23 acts or omissions set forth in the Complaint

24           18. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
25 Plaintiff's own conduct constitutes a failure to mitigate the supposed damages she  
26 allegedly suffered, and her supposed damages are otherwise speculative, not  
27 cognizable and not recoverable.

28           19. Plaintiff's alleged statutory claims fail or are barred, in whole or in part,



1 because the School is exempt from Claimant's putative statutory claims.

2 20. Plaintiff's alleged claims fail or are barred, in whole or in part, by the  
3 doctrines of waiver, estoppel, unclean hands, in pari delicto, and laches.

4 21. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
5 Plaintiff's purported claims are time-barred by the applicable statute of limitations.

6 22. Plaintiff has not established a basis for and is not entitled to recover  
7 attorneys' fees, investigative costs, or expert witness expenses, either pursuant to any  
8 contract or by statute.

9 23. As a matter of law and fact, Plaintiff has no claim for, or entitlement to,  
10 punitive damages, including in connection with her supposed claim for public  
11 injunctive relief, and Plaintiff is precluded from recovering punitive damages in this  
12 proceeding

13 24. Plaintiff's purported claims fail or are barred, in whole or in part, because  
14 the supposed allegations of misrepresentation are inconsistent with, and contrary to,  
15 plain written disclosures provided to Plaintiff and the terms of her enrollment  
16 agreements with the School.

17 25. Plaintiff's alleged claims fail or are barred, in whole or in part, or the  
18 damages (if any) allegedly sustained by Plaintiff are reduced by, her contributory  
19 and/or comparative fault or that of a third party.

20 26. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
21 Plaintiff committed an anticipatory breach of her enrollment agreements with the  
22 School.

23 27. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
24 the School's alleged statements were mere inactionable "puffing" or opinion.

25 28. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
26 any such violation committed by the School was not intentional and resulted from a  
27 bona fide error notwithstanding the use of reasonable procedures adopted to avoid any  
28 such error, and the School made appropriate corrections or remedies in accordance



1 with applicable statutes.

2 29. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
3 Plaintiff has not properly pled (nor can Plaintiff plead) any claims for injunctive relief.

4 30. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
5 Plaintiff failed to comply with the applicable pre-suit requirements for bringing  
6 Plaintiff's putative claims.

7 31. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
8 Plaintiff is not entitled to seek injunctive relief under any California statute on a  
9 supposed nationwide basis.

10 32. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
11 Plaintiff's requested relief is preempted by state and/or federal law, including the  
12 Supremacy Clause.

13 33. Plaintiff's alleged claims fail or are barred, in whole or in part, under the  
14 dormant commerce clause and the due process clauses of the 5th and 14th  
15 Amendments.

16 34. The School expressly reserves any defenses that may be available to it  
17 under any applicable laws of other jurisdictions, in accordance with applicable choice  
18 of law rules.

19 35. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
20 Plaintiff entered into a valid accord and satisfaction concerning Plaintiff's alleged  
21 claims for relief.

22 36. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
23 of the voluntary payment doctrine.

24 37. Plaintiff's alleged claims fail or are barred, in whole or in part, because  
25 the School is entitled to a set off, abatement, and/or recoupment of any and all  
26 amounts Plaintiff claims she is owed.

27 38. Additional facts may be revealed by future discovery that support  
28 additional affirmative defenses presently available to, but unknown to, the School.

1 Therefore, the School reserves the right to assert additional defenses in the event that  
2 discovery and investigation indicate that additional defenses would be appropriate.

3  
4 DATED: January 25, 2012.

5 REED SMITH LLP

6 By /s/ Felicia Yu  
7 Felicia Yu  
8 Attorneys for Defendants  
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REED SMITH LLP  
A limited liability partnership formed in the State of Delaware